

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of:

Equal Access and Interconnection)
Obligations Pertaining to)
Commercial Mobile Radio Services)

CC Docket No. 94-54
RM-8012

REPLY COMMENTS

The Personal Communications Industry Association ("PCIA") respectfully submits its reply comments in the above-captioned proceeding. As discussed below, PCIA believes that the record provides no rational basis for imposing equal access obligations on paging or other narrowband CMRS providers. Indeed, even with respect to cellular and other broadband CMRS providers, the record casts doubt that equal access can be justified under a reasonable cost/benefit analysis. In this area, as with any proposal to tariff LEC/CMRS interconnection arrangements or establish detailed CMRS/CMRS interconnection rules, PCIA strongly urges the Commission to adopt an approach that minimizes regulatory intrusion into the rapidly evolving, competitive market for CMRS services.

I. EQUAL ACCESS REQUIREMENTS ARE UNWARRANTED FOR NARROWBAND CMRS PROVIDERS.

In its initial comments, PCIA urged that any equal access requirements adopted by the Commission not be applied to paging or other narrowband CMRS services.¹ The record

¹ PCIA at 7.

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fully supports this position,² as no commenter disputed the Commission's factual conclusion that paging customers do not typically access an IXC network.³ Finally, paging and other narrowband CMRS providers lack market power.⁴

Only two IXCs supported a narrowband CMRS equal access requirement.⁵ Their arguments lack merit, however, because they are premised on an overly rigid concept of national uniformity. These carriers disregard the fact that, in local and regional markets, a wide variety of service offerings is evolving as a result of innovation and brisk competition. In addition, they ignore the very real costs associated with equal access implementation.⁶ Consequently, the Commission should decline to impose equal access obligations on paging and other narrowband CMRS providers.

² See AirTouch at 19-20; Allnet at 4; BellSouth at 34; NABER at 3.

³ Id.

⁴ See Regulatory Parity Second Report and Order, 9 FCC Rcd 1411, 1467 (1994) ("all CMRS providers, other than cellular service licensees, currently lack market power").

⁵ See AT&T at 6; MCI at 2-3, 7-8.

⁶ See PCIA at 8-9.

II. THE COSTS OF LEC-TYPE EQUAL ACCESS OBLIGATIONS FOR BROADBAND CMRS PROVIDERS APPEAR TO CONSIDERABLY OUTWEIGH ANY BENEFITS.

In its opening comments, PCIA supported the use of dial-around capabilities to access the preferred IXC of broadband CMRS customers. With respect to additional or more burdensome equal access obligations, however, PCIA urged the Commission carefully to consider whether tangible consumer benefits clearly outweighed the potentially significant costs.⁷ Based on the comments of other interested parties, PCIA is extremely skeptical that a rational cost/benefit analysis can justify the imposition of LEC-type equal access obligations on any class of broadband CMRS providers.

Numerous cellular carriers provided substantial evidence regarding the costs of equal access. Century Cellunet, for example, cited implementation costs of \$13 million and recurring administration costs of over \$200,000 per year.⁸ GTE documented implementation costs of \$23 million.⁹ And TDS said it would incur implementation costs of nearly \$4 million and annual administration costs of \$700,000.¹⁰ Extended to the cellular industry as a whole, the implementation costs

⁷ PCIA at 8.

⁸ Century Cellunet at 4-7.

⁹ GTE at 7-9.

¹⁰ TDS at 3-7.

certainly exceed \$100 million; for the entire broadband CMRS industry, these costs would be substantially larger.

In contrast, there is significant dispute regarding what benefits equal access will produce. Although some IXCs assert that equal access is needed to satisfy consumer choice, promote IXC access to potential customers, and lower costs, none of these statements appears to withstand scrutiny. With respect to choice, cellular carriers already permit their customers to access a preferred IXC through 800, 950, or calling card dial arrangements.¹¹ In addition, IXCs already can and do market to cellular customers by offering calling plans that combine landline and cellular long distance usage.¹² Moreover, numerous cellular carriers pointed out that equal access would require them to discontinue wide-area, toll-free calling plans, consequently raising costs for their customers.¹³

Against this background, PCIA urges the Commission carefully to assess whether equal access for broadband CMRS providers would in fact do more harm than good. Based on the record, PCIA respectfully suggests that there appears to be nothing broken here that needs fixing. Nonetheless, as explained in PCIA's opening comments, regulatory parity

¹¹ See, e.g., GTE at 7-9; SNET Mobility at 9.

¹² See Century Cellunet at 8; Vanguard Cellular at 17.

¹³ See, e.g., Florida Cellular at 2-3; GTE at 9-12; SNET Mobility at 9-10.

requires that any FCC-imposed equal access obligations apply evenly to all similarly situated broadband CMRS providers.

III. LEC/CMRS INTERCONNECTION ARRANGEMENTS SHOULD CONTINUE TO BE SUBJECT TO GOOD FAITH NEGOTIATIONS AND SHOULD INCORPORATE MUTUAL COMPENSATION FOR ALL TRAFFIC.

PCIA's opening comments addressed two issues concerning LEC/CMRS interconnection: the Commission's proposal to tariff such agreements, and the need for additional action regarding mutual compensation. With respect to both issues, there is ample support in the record for PCIA's position.

Regarding the tariffing proposal, PCIA demonstrated that federal tariffing of LEC/CMRS interconnection would be neither necessary nor beneficial. Other directly affected parties, including cellular carriers, other CMRS providers, IXC's, and LEC's, overwhelmingly agreed, for the same reasons cited by PCIA. Specifically, the record soundly shows that tariffing would impose unnecessary costs and delay, and would frustrate the ability of CMRS providers and LEC's to negotiate arrangements tailored to individualized needs.¹⁴ PCIA accordingly reiterates its belief that discrimination concerns may be adequately addressed by filing negotiated

¹⁴ See, e.g., AirTouch at 20-22; AT&T at 12-13; Alltel at 7; APC at 5; BellSouth at 6-9; McCaw at 23; RAM Mobile Data at 7; Southwestern Bell at 63. Many of these commenters also agreed with PCIA that a mandatory "most favored nation" clause in negotiated agreements probably would prove counterproductive, and in any event is unnecessary in light of the non-discrimination obligation imposed on LEC's by Section 202 of the Communications Act.

agreements with the Commission, as long as any information that could identify the CMRS providers is deleted and there is no filing fee or format requirement.

Similarly, several commenters agreed with PCIA that the Commission must re-emphasize the central importance of mutual compensation to LEC/CMRS interconnection.¹⁵ These parties echoed both PCIA's analysis that mutual compensation applies to interstate and intrastate traffic, and its concern that LECs continue to resist mutual compensation, notwithstanding the Commission's clear directions dating back to the 1987 Interconnection Declaratory Ruling.¹⁶ Consequently, the Commission should promptly state that mutual compensation for both interstate and intrastate traffic must be an element of all LEC/CMRS interconnection agreements.

IV. CMRS/CMRS INTERCONNECTION SHOULD BE LEFT LARGELY TO THE MARKETPLACE, WITHIN THE FRAMEWORK ESTABLISHED BY TITLE II OF THE COMMUNICATIONS ACT AND THE FCC'S GOOD FAITH NEGOTIATION REQUIREMENT.

In its opening comments, PCIA urged the Commission not to establish formal, detailed broadband CMRS-to-CMRS interconnection obligations at this time. It noted that, in light of the competitive nature of the marketplace and the nascency of many service providers, specifying up front what forms of interconnection will be considered technically

¹⁵ PCIA at 14-15.

¹⁶ See, e.g., APC at 5; Columbia PCS at 5-7; McCaw at 25; MCI at 12; Nextel at 17-18.

reasonable would be imprudent. Accordingly, PCIA recommended that the Commission permit marketplace incentives to determine the extent and type of interconnection, within basic guidelines established by Sections 201 and 202 of the Act and FCC precedent.¹⁷ These guidelines include the requirement that CMRS providers offer service upon reasonable request and at just and reasonable rates, that CMRS providers not engage in unreasonable discrimination, and that CMRS providers negotiate with other CMRS providers in good faith.¹⁸

The vast majority of commenters agreed with PCIA that, in the absence of control over bottleneck facilities, marketplace forces should result in interconnection being made available where warranted.¹⁹ These parties also concurred that the pace of technical change in the industry and the developmental nature of many CMRS offerings counsel against the adoption of an overly rigid interconnection framework.²⁰ For these reasons, PCIA continues to recommend that the Commission let CMRS-to-CMRS interconnection proceed

¹⁷ PCIA at 16.

¹⁸ Id. at 17-18. PCIA's opening comments provide further detail on the interpretation of these guidelines.

¹⁹ See, e.g., AirTouch at 22-23; McCaw at 6-9; rochester Telephone at 10-11.

²⁰ See, e.g., Bell Atlantic at 15-16; Nextel at 18; Southern Co. at 4-5.

largely at the direction of the marketplace, within the broad guidelines detailed in PCIA's opening comments.

V. CONCLUSION

For the reasons discussed above and in PCIA's opening comments, the Commission should not impose equal access obligations on narrowband CMRS providers and should carefully consider whether broadband CMRS equal access requirements can be supported by the record. In addition, the Commission should not require LEC/CMRS interconnection to be tariffed, but rather should re-emphasize that mutual compensation for both interstate and intrastate traffic must be an element of all LEC/CMRS interconnection agreements. Finally, the Commission should generally allow the marketplace to guide CMRS-to-CMRS interconnection, within a framework established by the statutory obligations of CMRS providers and the good faith negotiation requirement that applies to all co-common carriers. This combination of intervention only where necessary to correct market failures and deference to competition where the marketplace operates efficiently will set the stage for the continued expansion and development of

the CMRS industry and provide the greatest benefit to consumers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of October, 1994,
I caused a copy of the foregoing " Reply Comments Of The
Personal Communications Industry Association" to be hand-
delivered to the following:

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